REMARKS

Applicant respectfully requests entry of the following amendments and remarks contained herein in this full and timely response to the outstanding final Office Action mailed June 17, 2005. Upon entry of the amendments in this response, claims 1 – 5, 16 – 18, 21 – 23, 25 – 27, 32, 34 – 35, and 38 – 59 remain pending. In particular, Applicant amends 1, 2, 3, 17, 40 and 52 and adds new claim 59. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Priority

The Office Action indicates that Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. §120 or §119(e). While Applicant does not address this issue in this response, Applicant should be not presumed to agree with any statements made in the Office Action regarding the priority of the Application unless otherwise specifically indicated by Applicant.

II. Claim Objections

The Office Action objects to claims 1 and 52 because the recitation of "the user selected category lacks proper antecedent basis. In response, Applicant amends claims 1 and 52 to comply with the Office Action's request. Additionally, the Office Action objects to claim 40 because the recitation of "the information parameter" lacks proper antecedent basis. Applicant amends this claim as well, and submits that claims 1, 40, and 52 are now in condition for allowance.

III. Rejections Under 35 U.S.C. §103

In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the cited art reference must suggest all features of the claimed invention to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). Further, "[t]he PTO has the burden under section 103 to establish a prima facie case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

A. Claims 1 – 5, 16, 23, 34, 35, 38 – 45, 48, 51 – 55, 57, and 58 are Patentable Over *LaJoie* in View of *Eick*

1. Claim 1 is Patentable Over *LaJoie* in View of *Eick*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al. ("*LaJoie*") in view of U.S. Patent Number 5,812,124 to Eick et al. ("*Eick*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest all of the elements of claim 1. Claim 1, as amended recites:

> A method for providing media information to a user via an interactive media services client device coupled to a programmable media services server device, said method comprising steps of:
>
> receiving media information corresponding to a plurality of accessible media;

configuring a display order of media titles in the received media information according to the value of a media information parameter;

configuring each index in a plurality of user-selectable indices according to a respective range of values of the media information parameter, each respective range of values being determined according to a first threshold defining a predetermined number of media titles;

configuring the plurality of user-selectable indices for indexing the media titles in the display order, each user-selectable index corresponding to the media titles in the received media information determined by the respective range of values of the media information parameter corresponding to the user-selectable index;

responsive to a user selecting a first user-selectable index, providing simultaneously in the display order at least a portion of the media titles corresponding to the first user-selectable index.

The Office Action asserts that *Eick* "'define[s] each index... according to a respective range of values... being determined according to a first threshold defining a predetermined number of media titles' whereupon 'each user-selectable index corresponding to the media titles in the received media information [is] determined by the respective range of values of the media information parameter corresponding to the user-selectable index..." (OA page 6, first full paragraph). Applicant respectfully disagrees with this analysis.

Applicant submits that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest at least a method comprising "***configuring each index in a plurality of user-selectable indices according to a respective range of values of the media information parameter, each respective range of values being determined according to a first threshold defining a predetermined number of media titles***..." as recited in claim 1, as amended. More specifically, with reference to *Eick* FIGS. 19 – 22, *Eick* seems to suggest that "TV titles" beginning with "N" are not "***configured according to a respective range of values... each respective range of values being determined according to a first threshold defining a predetermined of media titles***..." for at least the reason that category "N" (FIG. 19) includes an unlimited number of titles, as shown in FIGS. 20, 21, and

22. For at least this reason, Applicant submits that claim 1 is patentable over *LaJoie* in view of *Eick*.

Additionally, the Office Action states that *Eick* "provides evidence that it is known in the art to 'define each index... according to a respective range of values of the media information parameter corresponding to the user-selectable index...'" (OA p. 6, line 11). Applicant respectfully traverses this rejection, and statement of allegedly known subject matter for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being known.

Applicant asserts that the basis for the alleged finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being known. As such, a statement known subject matter is unwarranted. For at least these reasons, Applicant respectfully traverses the Office Action's rejection and alleged finding of known subject matter.

2. Claim 2 is Patentable Over *LaJoie* in View of *Eick*

The Office Action indicates that claim 2 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al. ("*LaJoie*") in view of U.S. Patent Number 5,812,124 to Eick et al. ("*Eick*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest all of the elements of claim 2. Claim 2, as amended recites:

> A method for providing media information to a user via an interactive media services client device coupled to a programmable media services server device, said method comprising steps of:

receiving media information corresponding to a plurality of accessible media;

configuring an interactive media guide with a display order of the media titles in the received media information according to the value of a media information parameter and according to a portion of the received media information corresponding to a user-selected category;

determining a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, each range of values being determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values;

configuring the interactive media guide with the plurality of user-selectable indices for indexing the media titles in the display order;

presenting to a user an interactive media guide having a plurality of indexing prompts corresponding to respective user-selectable indices;

receiving a first user input identifying a first indexing prompt corresponding to a first user-selectable index; and

responsive to the first user input, providing simultaneously in the display order at least a portion of the media titles corresponding to the first user-selectable index and the user-selected category.

The Office Action asserts that *Eick* "'define[s] each index... according to a respective range of values... being determined according to a first threshold defining a predetermined number of media titles' whereupon 'each user-selectable index corresponding to the media titles in the received media information [is] determined by the respective range of values of the media information parameter corresponding to the user-selectable index..." (OA page 6, first full paragraph). Applicant respectfully disagrees with this analysis.

Applicant submits that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest at least a method comprising "***determining a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, each range of values being determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values***..." as recited in claim 2, as amended. More specifically, with reference to *Eick* FIGS. 19 – 22, *Eick* seems to suggest that

"TV titles" beginning with "N" are not "***determining a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, each range of values being determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values...***" for at least the reason that category "N" (FIG. 19) includes an unlimited number of titles, as shown in FIGS. 20, 21, and 22. For at least this reason, Applicant submits that claim 2 is patentable over *LaJoie* in view of *Eick*.

Additionally, the Office Action states that *Eick* "provides evidence that it is known in the art to 'determin[e] a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, the range of values being determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values...'" (OA p. 8, line 12). Applicant respectfully traverses this rejection, and statement of allegedly known subject matter for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being known.

Applicant asserts that the basis for the alleged finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being known. As such, a statement known subject matter is unwarranted. For at least these reasons, Applicant respectfully traverses the Office Action's rejection and alleged finding of known subject matter.

3. Claim 5 is Patentable Over *LaJoie* in View of *Eick*

The Office Action indicates that claim 5 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al. ("*LaJoie*") in view of

U.S. Patent Number 5,812,124 to Eick et al. ("*Eick*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest all of the elements of claim 5. More specifically, the Office Action indicates that "the examiner takes official notice that it is notoriously well known in the art for capable service providers to charge a fee in connection with subscribing to their services including the ability to access an interactive media guide" (p. 11, line 5). Applicant respectfully traverses this rejection, and statement of Official Notice for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being well known.

Applicant asserts that the basis for the finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being well-known. As such, a statement of Official Notice is unwarranted. As recited in MPEP §2144.03(A), "it [is] not...appropriate for the Office Action to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Office Action must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." For at least these reasons, Applicant respectfully traverses the Office Action's rejection and statement of Official Notice.

4. Claim 41 is Patentable Over *LaJoie* in View of *Eick*

The Office Action indicates that claim 41 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al. ("*LaJoie*") in view of

U.S. Patent Number 5,812,124 to Eick et al. ("*Eick*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest all of the elements of claim 41. More specifically, the Office Action indicates that "the examiner takes official notice that it is notoriously well known in the art for capable service providers to charge a fee in connection with subscribing to their services including the ability to access an interactive media guide" (p. 11, line 5). Applicant respectfully traverses this rejection, and statement of Official Notice for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being well known.

Applicant asserts that the basis for the finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being well-known. As such, a statement of Official Notice is unwarranted. As recited in MPEP §2144.03(A), "it [is] not...appropriate for the Office Action to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, "if such notice is taken, the basis for such reasoning must be set forth explicitly. The Office Action must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." For at least these reasons, Applicant respectfully traverses the Office Action's rejection and statement of Official Notice.

5. Claim 52 is Patentable Over *LaJoie* in View of *Eick*

The Office Action indicates that claim 52 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al. ("*LaJoie*") in view of U.S. Patent Number 5,812,124 to Eick et al. ("*Eick*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest all of the elements of claim 52. Claim 52, as amended recites:

> An interactive media services client device for providing media to a user comprising:
>
> memory for storing media information received from a server, said media information corresponding to a plurality of respective accessible media; and
>
> a processor configured to:
>
> cause a display order of media titles in the received media information according to the value of a media information parameter and according to a portion of the received media information;
>
> ***determine a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, the range of values being determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values***;
>
> enable an interactive media guide with the plurality of user-selectable indices for indexing the media titles in the display order;
>
> present to a user the interactive media guide having a plurality of indexing prompts corresponding to respective user-selectable indices;
>
> receive a first user input identifying a first indexing prompt corresponding to a first user-selectable index; and
>
> responsive to the first user input, provide simultaneously in the first display order at least a portion of the media titles corresponding to the first user-selectable index and a user-selected category.
>
> responsive to a user selecting a first user-selectable index, providing simultaneously in the display order at least a portion of the media titles corresponding to the first user-selectable index.

The Office Action asserts that *Eick* "'define[s] each index... according to a respective range of values... being determined according to a first threshold defining a predetermined number of media titles' whereupon 'each user-selectable index corresponding to the media titles

in the received media information [is] determined by the respective range of values of the media information parameter corresponding to the user-selectable index..." (OA page 6, first full paragraph). Applicant respectfully disagrees with this analysis.

Applicant submits that *LaJoie* in view of *Eick* fails to disclose, teach, or suggest at least an interactive media services client device including a processor for "***determine a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, the range of values being determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values***..." as recited in claim 52, as amended. The Office Action asserts that *Eick* "'define[s] each index... according to a respective range of values... being determined according to a first threshold defining a predetermined number of media titles' whereupon 'each user-selectable index corresponding to the media titles in the received media information [is] determined by the respective range of values of the media information parameter corresponding to the user-selectable index..." (OA page 6, first full paragraph). Applicant respectfully disagrees with this analysis.

More specifically, with reference to *Eick* FIGS. 19 – 22, *Eick* seems to suggest that "TV titles" beginning with "N" are not "***configured according to a respective range of values... each respective range of values being determined according to a first threshold defining a predetermined of media titles***..." for at least the reason that category "N" (FIG. 19) includes an unlimited number of titles, as shown in FIGS. 20, 21, and 22. For at least this reason, Applicant submits that claim 52 is patentable over *LaJoie* in view of *Eick*.

Additionally, the Office Action states that *Eick* "provides evidence that it is known in the art to 'determin[e] a range of values of the media information parameter corresponding to each index in a plurality of user-selectable indices, [wherein] the range of values [is] determined according to the number of media titles in the portion of the received media information corresponding to the respective range of values..." (OA p. 10, line 8). Applicant respectfully traverses this rejection, and statement of allegedly known subject matter for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being known.

Applicant asserts that the basis for the alleged finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being known. As such, a statement known subject matter is unwarranted. For at least these reasons, Applicant respectfully traverses the Office Action's rejection and alleged finding of known subject matter.

6. Claims 2 – 5, 16, 32, 34, 35, 38 – 45, 48, 51, 53 – 55, 57, and 58 are Patentable Over *LaJoie* in View of *Eick*

In addition, dependent claims 3 – 5, 16, 42, 44, and 46 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 39 – 41, 43, 45, 47, and 48 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 2. Dependent claims 32, 34 – 35, 38, 53 – 55, and 57 – 58 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 52. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

B. Claims 17, 18, 21 – 23, 35 – 27, and 49 – 51 are Patentable over *LaJoie* in View of *Young*

1. Claim 17 is Patentable Over *LaJoie* in View of *Young*

The Office Action indicates that claim 17 stands rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al. ("*LaJoie*") in view of U.S. Patent Number 5,808,608 to Young et al. ("*Young*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Young* fails to disclose, teach, or suggest all of the elements of claim 17. Claim 17, as amended recites:

> An interactive media services client device for providing media information to a user comprising:
>
> memory for storing media information received from a server, said media information corresponding to a plurality of respective accessible media; and
>
> a processor configured to:
>
> cause a display order of the media titles in the received media information according to the value of the release year of the media title;
>
> ***enable a plurality of user-selectable indices for indexing displayed media titles, each user-selectable index corresponding to a range of time and according to a threshold defining a predetermined number of media titles***;
>
> determine the media titles in the received media information corresponding to each user-selectable index and a user-selected category; and
>
> responsive to a user input, provide simultaneously in the display order at least a portion of the media titles in the received media information corresponding to a first user-selectable index and the user-selected category.

Applicant submits that *LaJoie* in view of *Young*, fails to disclose, teach, or suggest at least an "interactive media services client device for providing media information to a user comprising... a processor configured to... ***enable a plurality of user-selectable indices for indexing displayed media titles, each user-selectable index corresponding to a range of time***

and according to a threshold defining a predetermined number of media titles..." as recited in claim 17, as amended. For at least this reason, Applicant submits that claim 17, as amended is patentable over *LaJoie* in view of *Young*.

In addition, the Office Action indicates that "the examiner takes official notice as to the fact that the illustrative programs/movies with the titles 'The Bridges of Madison County,' 'Casablanca,' 'Heat,' and 'The Fugitive' were released over a range of years such as 1995, 1942, 1995, and 1993 respectively. Accordingly, the 'plurality of user-selectable indices' clearly correspond to a 'range of at least one year' given that the underlying programs are associated with years of release" (p. 11, line 5). Applicant respectfully traverses this rejection, and statement of Official Notice for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being well known.

Applicant asserts that the basis for the alleged finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being well-known. As such, a statement of Official Notice is unwarranted. As recited in MPEP §2144.03(A), "it [is] not... appropriate for the Office Action to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, "if such notice is taken, the basis for such reasoning must be set forth explicitly. The Office Action must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." For at least these reasons, Applicant respectfully traverses the Office Action's rejection and statement of Official Notice.

Additionally, the Office Action asserts that *Young* "provides evidence that it is known in the art so as to provide user selectable indices which utilize the 'value of the release year of the media' in accordance with 'causing a display order of the media titles in the received media information according to the value of the release year of the media'" (OA p. 15, line 3). Applicant respectfully traverses this rejection, and statement of allegedly known subject matter for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being known.

Applicant asserts that the basis for the alleged finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being known. As such, a statement known subject matter is unwarranted. For at least these reasons, Applicant respectfully traverses the Office Action's rejection and alleged finding of known subject matter.

2. Claims 18, 21 – 23, 25 – 27, and 49 – 51 are Patentable Over *LaJoie* in View of *Young*

In addition, dependent claims 18, 21 – 23, 25 – 27, and 49 – 51 are believed to be allowable for at least the reason that they depend from allowable independent claim 17. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

C. Claims 46, 47, and 56 are Patentable Over *LaJoie* and *Eich* and Further in View of *Young*

The Office Action indicates that claims 46, 47, and 56 stand rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent Number 5,850,218 to LaJoie et al.

("*LaJoie*") and U.S. Patent Number 5,812,124 to Eich et al. ("*Eich*") and further in view of U.S. Patent Number 5,808,608 to Young et al. ("*Young*"). Applicant respectfully traverses this rejection for at least the reason that *LaJoie* in view of *Young* fails to disclose, teach, or suggest all of the elements of these claims.

More specifically, with respect to claims 46, 47, and 56, the Office Action asserts that *Young* "provides evidence that it is known so as to utilize a 'media information parameter corresponding to a media release year, and a second range of values defining a second user-selectable index is a plurality of years'" (OA p. 15, line 3). Applicant respectfully traverses this rejection, and statement of allegedly known subject matter for at least the reason that the noticed fact is not capable of instant and unquestionable demonstration as being known.

Applicant asserts that the basis for the alleged finding (in addition to the finding itself) does not include specific factual findings predicated on sound technical and scientific reasoning to the support the conclusion (as required), evidencing it not being known. As such, a statement known subject matter is unwarranted. For at least these reasons, Applicant respectfully traverses the Office Action's rejection and alleged finding of known subject matter.

In addition, dependent claim 46, is believed to be allowable for at least the reason that this claim depends from allowable independent claim 1. Dependent claim 47, is believed to be allowable for at least the reason that this claim depends from allowable independent claim 2. Dependent claim 56, is believed to be allowable for at least the reason that this claim depends from allowable independent claim 52. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

IV. New Claim 59 is Allowable Over the Cited Art

In addition, Applicant adds new claim 59. Applicant submits that new claim 59 is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest a method comprising "configuring each index in a plurality of user-selectable indices ***according to the display order and according to a respective range of values of the media information parameter***, each respective range of values being determined according to a first threshold defining a predetermined number of media titles" as recited in new claim 59. For at least this reason, Applicant submits that new claim 59 is patentable over the cited art.

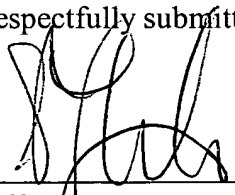
CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Further, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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